

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF INDIANA  
HAMMOND DIVISION**

UNITED STATES OF AMERICA

v.

DARRELL TURNER

CAUSE NO.: 2:00-CR-71-TLS

**OPINION AND ORDER**

This matter is before the Court sua sponte. In this criminal case, the Defendant, Darrell Turner, filed a Motion for Return of Property, Under Fed. R. Crim. P. 41(g) [ECF No. 163], in which he moves for the return of his money obtained during a search of his home and fees that he paid.

Federal Rule of Criminal Procedure 41(g) provides:

A person aggrieved by an unlawful search and seizure of property or by the deprivation of property may move for the property's return. The motion must be filed in the district where the property was seized. The court must receive evidence on any factual issue necessary to decide the motion. If it grants the motion, the court must return the property to the movant, but may impose reasonable conditions to protect access to the property and its use in later proceedings.

Fed. R. Crim. P. 41(g). The Seventh Circuit Court of Appeals has explained that “a motion under Rule 41(g) for the return of property obtained in a search . . . [is] a civil proceeding subject to” “the payment of a filing fee, and, since he is a prisoner, the limitations on prisoner civil rights suits imposed by the Prison Litigation Reform Act, 28 U.S.C. § 1915.” *United States v. Howell*, 354 F.3d 693, 695 (7th Cir. 2004); *see also United States v. Taylor*, 975 F.2d 402, 403 (7th Cir. 1992) (explaining that orders resolving motions under Rule 41(g) are treated as civil for purposes of appeal). Though it is understandable why the Defendant’s Rule 41(g) motion and related papers [ECF Nos. 163–166, 168–172] were docketed in this case, they should be used to open a new civil case and the filing fee should be resolved.

For these reasons, the Court hereby:

1. STRIKES ECF Nos. 163–166 and 168–172 from the docket in this criminal case;
2. DIRECTS the Clerk of Court to docket ECF Nos. 163–166 and 168–172 in a new civil case assigned to the undersigned as the presiding judge with Darrell Turner as the Plaintiff and the United States of America as the Defendant;
3. DIRECTS the Clerk of Court to docket this Order in the new civil case;
4. DIRECTS the Clerk of Court to place the cause number of the newly opened case on a blank AO 240 (Rev. 7/10) (INND Rev. 8/16) Prisoner Motion to Proceed In Forma Pauperis form and send it to the Plaintiff;
5. ORDERS Darrell Turner, the Plaintiff in the newly opened case, to resolve the filing fee in the newly opened case by paying the \$405 filing fee or filing a motion to proceed in forma pauperis;
6. GRANTS Darrell Turner until **January 7, 2025**, to resolve his filing fee status in the new civil case; and
7. CAUTIONS Darrell Turner that if he does not respond by the deadline, the newly opened civil case will be dismissed without prejudice and without further notice.

SO ORDERED on December 9, 2024.

s/ Theresa L. Springmann  
JUDGE THERESA L. SPRINGMANN  
UNITED STATES DISTRICT COURT